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E.O. 12958: DECL: 09/01/2019
TAGS: [PGOV](#) [SNAR](#) [PTER](#) [PREL](#) [NU](#)
SUBJECT: GON NON-COOPERATION ON FARC ARMS SMUGGLING CASE

REF: MANAGUA 868 (NOTAL)

Classified By: Ambassador Robert Callahan, Reasons 1.4 (b) and (d)

11. (S) SUMMARY. In a series of communications and meetings between June 17 and June 19, various senior-level officials of the Government of Nicaragua (GON) refused to cooperate with a routine USG request for the transfer of evidence pertinent to an on-going Department of Justice (DOJ) investigation related to arms-smuggling by the Revolutionary Armed Forces of Colombia (FARC). The refusal to cooperate by senior GON cabinet members is of concern given that the evidence in question was seized during operations that were initiated based on USG-obtained information and that were partially funded by the USG. The evidence request was for samples of high-power rifles seized in two operations carried out in Nicaragua. Because the USG and the GON do not have a bilateral Mutual Legal Assistance Treaty (MLAT), previous evidence transfers involved the physical evidence being passed directly between law-enforcement representatives of the two nations. The GON's sudden refusal to cooperate on such a routine transfer could be a troubling harbinger of future difficulties in Post's counter narcotics cooperation with the GON. END SUMMARY.

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Developing The Case
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12. (S) In late 2007, the DOJ started an investigation of narcotics and arms smuggling networks operating in Colombia, Panama, Nicaragua, and Honduras. DOJ investigators quickly discovered that buyers and suppliers of arms often met in Miami to set up their deals. The investigators soon zeroed in on one group in Nicaragua, headed by Nicaraguan national Jimmy Martinez. This group seemed to have access to large quantities -- possibly metric tons -- of small arms. Utilizing this information, a DOJ undercover agent contacted Martinez claiming to be an arms buyer/drug supplier from the FARC and offered a drugs-for-arms deal. Martinez quickly agreed to the deal, and detailed negotiations began over how many rifles would be exchanged and for what quantity of

narcotics.

¶13. (S) In October 2008, the Nicaraguan Navy seized 158 rifles off of the Atlantic Coast of Nicaragua. The seizure was widely covered in Nicaraguan media. After the seizure, Martinez contacted the DOJ undercover agent and claimed that the seized rifles were part of an arms shipment he had prepared as part of the supposed FARC deal. In April 2009, the Nicaraguan Navy seized approximately 50 additional rifles. As had happened months before, Martinez again called the DOJ undercover agent to inform that the seized rifles also had been part of his stock. (NOTE: Photos of Martinez's arms stocks obtained by DOJ were compared with details about the storage and protection of the weapons seized by the Navy and support Martinez's claim that the weapons came from his supply. END NOTE.)

¶14. (S) When asked whether he could provide "heavier" weapons such as TOW missiles, surface-to-air missiles (SAMs) or RPG-7s, Martinez confirmed he could. He implied; however, that obtaining such weapons would require working with yet another supplier. (NOTE: DOJ sources believe that Martinez may be working with "The Buddha," a known, notorious arms trafficker operating along the Nicaraguan-Honduran border. END NOTE.) According to DOJ investigators, Martinez has close ties to Steadman Fagoth, an indigenous Resistance fighter from the 1980s, now aligned with Daniel Ortega's ruling Sandinista (FSLN) Party. Fagoth is the President of the Nicaragua Fisheries Agency (INPESCA).

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The Plot Thickens...
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¶15. (S) Following the two weapons seizures, the DEA Country Office made the request for evidence transfer. As had normally happened in the past, senior Nicaraguan National Police (NNP) officials agreed to the transfer request, and DEA began making arrangements for a special flight to pick-up the weapon samples in early June 2009. However, when U.S.-based law enforcement officials arrived in Nicaragua, NNP counterparts informed the DEA Country Director that the request for weapons samples would only be executed with direct approval from Nicaraguan Attorney General Hernan Estrada. DEA prepared a letter to Estrada requesting the evidence transfer. Subsequently, Estrada informed the Embassy that he could only act upon a request made via the Ministry of Foreign Relations (MINREX).

¶16. (S) Upon learning of Estrada's conditions, on June 17, the Ambassador called Foreign Minister Samuel Santos in an effort to expedite a solution. During that telcon, Santos declined to cooperate, arguing that the U.S. request was not based upon any existing international or bilateral agreement, and that the issue was the Attorney General's to resolve. The Ambassador then phoned Estrada and asked whether a Diplomatic Note to MINREX requesting the evidence would meet Estrada's needs. He indicated that it would. The Ambassador then phoned Santos a second time to explain the arrangement reached with Estrada and that a note would be sent to the Ministry. Later that day, the Political Counselor hand-delivered to MINREX, Diplomatic Note 2009-069 (dated 17 June 2009), which formally requested cooperation on the case.

¶17. (S) The following day, on June 18 DEA representatives received an e-mail from the NNP stating that Attorney General Estrada had, in fact, now agreed to the evidence transfer. However, when U.S. law enforcement personnel arrived at the transfer site the NNP once again refused to cooperate, and that only a letter from FM Santos authorizing the transfer would suffice. Despite Embassy officials' efforts to contact Santos yet again, he proved "unavailable." After several-hours delay, aircraft scheduling issues prevented a further extension and U.S. law enforcement personnel were forced to return without the evidence.

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Comment

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18. (S) COMMENT: During a recent meeting with MINREX on a separate evidence transfer request (to be reported SEPTEL) we raised this case. Our Ministry interlocutors were aware of it, but indicated that the Minister had been "unable to comply with his verbal commitments" to the Ambassador due to unidentified "external factors." We believe this incident raises serious concerns about the GON's level of commitment and continued willingness to cooperate on law enforcement issues outside the realm of direct drug seizure operations that have characterized our bilateral cooperation for the last several years. Drug seizures are important, but are of limited long-term utility if not translated into prosecutions and convictions of traffickers. We note that direct transfers of evidence between law enforcement entities are routine occurrences, even in countries where the U.S. does not have a formal MLAT arrangement. In fact, such transfers with Nicaragua have taken place before without incident or complication. Given this history, we find it highly unusual that the GON elevated this case to the ministerial level, and was still unwilling or unable to bring it to resolution. Furthermore, the GON's reticence to accept the universal principle of "comity among nations" may indicate a troubling new departure for this administration.

CALLAHAN